also commended. While it must be admitted that in these trying times Lloyd himself behaved with admirable poise and sweetness of temper, using none of the insolent language of the violent agitator, it will also be seen that he subordinated the interests of law and order to the supposed interests of organized labor. He condemned the President, simply because he believed that the sending of the United States troops to Chicago was a blow to labor unions. Later, by way of contrast, he had only praise for the attitude of President Roosevelt in the equally difficult crisis of the anthracite coal strike of 1902, when that President summoned capital and labor to arbitration instead of bringing to bear the physical power of United States troops. The account of this arbitration is all the more valuable because Lloyd himself bore a prominent part in conducting the case of the miners. High ideals are shown to have actuated the leaders of the People's party in the early days of that organization, and then, in Lloyd's opinion, to have been abandoned in the fusion with the Democrats in 1896, when he and many others deserted the party and finally joined the Socialists. The ideas of the Socialist party to which Lloyd was thus finally driven after membership in various parties of protest, are expounded with much force.

Besides the above, there is found in the volumes material on the trust question, the Standard Oil Company in particular, on co-operation, on the initiative and referendum, and kindred topics. A chronological list of Lloyd's writings, together with a detailed index, is attached. The work of the editor, in general careful and discriminating, would be improved by the inclusion of more dates in the body of the text.

EMERSON D. FITE.

The Courts, the Constitution, and Parties: Studies in Constitutional History and Politics. By ANDREW C. MCLAUGHLIN, Professor of History, University of Chicago. (Chicago: University of Chicago Press. 1912. Pp. vii, 299.)

PROFESSOR MCLAUGHLIN has assembled in this volume five essays and addresses, which, although prepared on separate occasions, have a unity of their own because they deal with a few fundamental and closely related problems of American constitutionalism and party government. In two papers on the significance of parties and their place in a democracy, the author gives fresh treatment to such familiar topics as the growth of the party outside of the formal government, the necessity for permanent organization, the sources of party support, the nationalizing influence of parties on American politics, the effect of the popular election of senators on federalism, the justification for leaders' hunting issues, the executive as party premier, and the present need for constitutionalizing and democratizing political machinery. The essay on the social compact and constitutional construction gives the place of the idea in early American political theory, expounds it in the

form understood and applied in the Convention and by such leaders as Madison, Luther Martin, and Calhoun, and examines its relation to speculations on the nature of the Union. The final paper, on the written constitution in its historical aspects, reinforces with insight and apt illustration the principle that constitutions are not "struck off"; discusses the doctrines of natural rights and individualism embodied in our system; and considers their limitations under the existing social-economic system. The most timely of all is the hitherto unpublished dissertation on the power of the courts to declare laws unconstitutional. Applying Seebohm's method, Professor McLaughlin works backward from Marbury *v.* Madison through the immediate precedents and antecedents, the decisions of the state courts between 1787 and 1803, the theories propounded in the Convention, and the early state cases, out into the broad field of political theory—the separation of powers, doctrines of "fundamental" law, natural rights and limitations on law-making power, and colonial and old English principles. The upshot of all this erudite searching is that there was no breach in Anglo-Saxon legal tradition when the courts assumed the power to pass upon the validity of statutes. While marvelling at the literary skill and scholarly neatness of this impressive array, the present reviewer cannot help feeling that Professor McLaughlin has strained his evidence, or at least has made a consistent story by neglecting the countervailing testimony. He does not inquire why the fundamental English ideas, so potent in his scheme, did not result in judicial supremacy in other English-speaking lands. He does not bring out the fact that the cases in which the courts had exercised this power previously to the Convention were relatively few and generally questioned by high authorities; he passes by the tremendous popular opposition to this assumption of power by the courts during the confederate period; and he seems to lay too much stress on "ideas" as factors in making institutions. Above all he leaves out of account the undoubted legislative supremacy exercised under the early state constitutions—a supremacy that was everywhere threatening property and minority rights and was, in Madison's opinion, largely influential in bringing about the Convention. In spite of Professor McLaughlin's skillful argument, an equally powerful support might be found for the contention that judicial control was really a new and radical departure of the closing years of the eighteenth century which did not spring from Anglo-Saxon "ideas", but from the practical necessity of creating a foil for the rights of property against belligerent democracy governing through majorities in substantially omnipotent legislatures. This necessity for new safeguards is clearly set forth by Madison in *The Federalist* (number X.), by Hamilton in number LXXVIII., and by Marshall in the fourth chapter of the second volume of his *Life of Washington*.

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